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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,604	02/23/2004	Brian Rose	P2492C-961	3218
21839 7590 12/18/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER CASCHERA, ANTONIO A	
			ART UNIT 2628	PAPER NUMBER
			NOTIFICATION DATE 12/18/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
debra.hawkins@bipc.com

Office Action Summary	Application No. 10/785,604	Applicant(s) ROSE, BRIAN	
	Examiner Antonio A. Caschera	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27, 29-34, 41-46, 59-68 and 70-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-27, 29-34, 41-46 and 59-68 is/are allowed.
- 6) ☒ Claim(s) 70-81 is/are rejected.
- 7) ☒ Claim(s) 82-84 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 10/26/07.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 70, 71, 73, 74, 76, 77, 79 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe Systems Inc. (*Adobe Photoshop 6.0 User Guide for Windows and Macintosh*. 2000. Adobe Systems Inc.) in view of Beretta (U.S. Patent 5,254,978).

In reference to claim 70, Adobe Systems Inc. discloses a method for producing a color palette which facilitates user selection of colors having a consistent appearance across different computer platforms (see page 330, 2nd paragraph wherein Adobe Systems Inc. discloses user selection and manipulation of colors utilizing color tables in a graphics program named, "Adobe Photoshop 6.0" which is a well-known software program in the art.), comprising the steps of:

placing blends of non web-safe chromatic colors in a first contiguous grouping within the palette (see page 330, "Generating a color table" and 331, under "Mac OS" and

“Windows” wherein Adobe Systems Inc. discloses the ability to create a color table with a palette or set of colors in the table being optimized for the Mac or Windows operating systems.

Note, such colors are interpreted as non web-safe colors since such colors are not consistent across different operating platforms as defined by Applicant in the specification; a web-safe color is the opposite of a non web-safe color which is one that does not provide a consistent appearance across different platforms (see page 2, lines 5-7 of Applicant’s disclosure). Also note, the Office interprets the colors described in the table of Adobe Systems Inc. equivalent to chromatic colors.);

placing web-safe chromatic colors, including blends created from the web-safe chromatic colors (see page 330, “Generating a color table” and 331, under “web” wherein Adobe Systems Inc. discloses the ability to create a table with a palette or set of colors in the table being web-safe. Note, the Office interprets the colors described in the table of Adobe Systems Inc. equivalent to chromatic colors.), *in a second contiguous grouping within the palette*; and

storing said palette on a computer-readable medium for display and selection of individual colors during the creation of an image on a computer by a user.

Adobe Systems Inc. does not explicitly disclose storing the palette on a computer-readable medium for display and selection of colors during the creation of an image on a computer by a user however Beretta does. Beretta discloses a reference color selection system wherein individual colors are selected then displayed in a predetermined order according to color space coordinates such as order of lightness and chroma values (see columns 15-16, lines 17-7).

Such colors are further disclosed as being stored in a palette database in Beretta (see column 15, lines 8-16 and Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color table groupings of web-safe and non web-safe colors of Adobe Systems Inc. with the color palette storing, displaying and selecting techniques of Beretta in order to allow users of a coloring computer system to organize, save and restore previously selected colors and color associated data for future use/reference (see column 9, lines 20-29 of Beretta). Although Beretta discloses grouping the colors together and displaying color palettes adjacent to one another on the display (see Figure 4), neither Adobe Systems Inc. nor Beretta explicitly disclose creating two specific contiguous groups of colors, one for non web-safe and a second for web-safe colors as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the grouping of specific web-safe and non web-safe colors of Adobe Systems Inc. with the color palette storing, displaying and selecting techniques of Beretta in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, "...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors," (see column 1, lines 40-51 of Beretta), therefore providing an easier environment for finding non web-safe and web-safe related colors within a color table.

In reference to claims 71, 74, 77 and 80, Adobe Systems Inc. and Beretta disclose all of the claim limitations as applied to claims 70 and 76 in addition, Adobe Systems Inc. discloses the ability to sort a color table by hue (see page 332, under "Sorting the color table").

In reference to claims 73 and 79, Adobe Systems Inc. and Beretta disclose all of the claim limitations as applied to claims 70 and 76 respectively in addition, Adobe Systems Inc. discloses the ability to sort a color table by luminance (see page 332, under “Sorting the color table”).

In reference to claim 76, Adobe Systems Inc. discloses a *display device for a computer system on which is displayed* a color palette comprising a first contiguous grouping of non web-safe chromatic colors (see page 330, 2nd paragraph, “Generating a color table” and 331, under “Mac OS”, “Windows” and “web” wherein Adobe Systems Inc. discloses user selection and manipulation of colors utilizing color tables in a graphics program named, “Adobe Photoshop 6.0” which is a well-known software program in the art. Adobe Systems Inc. discloses the ability to create a color table with a palette or set of colors in the table being optimized for the Mac or Windows operating systems. Note, such colors are interpreted as non web-safe colors since such colors are not consistent across different operating platforms as defined by Applicant in the specification; a web-safe color is the opposite of a non web-safe color which is one that does not provide a consistent appearance across different platforms (see page 2, lines 5-7 of Applicant’s disclosure). Also note, the Office interprets the colors described in the table of Adobe Systems Inc. equivalent to chromatic colors.), and *a second contiguous grouping* of web-safe chromatic colors, including blends created from the web-safe chromatic colors, for selection of individual colors from said palette during computer-assisted creation of an image by a user (see page 330, “Generating a color table”, page 331, under “web” and 334, under “To select all Web-safe colors” and “To select all non-Web-safe colors” wherein Adobe Systems Inc. discloses the ability to create a table with a palette or set of colors in the table being web-safe. Adobe Systems Inc. also discloses selecting colors from an image, selecting specific web-safe or non-

web-safe colors. Note, the Office interprets the colors described in the table of Adobe Systems Inc. equivalent to chromatic colors.).

Adobe Systems Inc. does not explicitly disclose a display device for a computer system on which the palette is displayed however Beretta does. Beretta discloses a reference color selection system including a computer system and display screen on which the color palette is displayed (see Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color table groupings of web-safe and non web-safe colors of Adobe Systems Inc. with the color palette displaying components of Beretta in order to allow users of a coloring computer system to organize, save and restore previously selected colors and color associated data (see column 9, lines 20-29 of Beretta). Although Beretta discloses grouping the colors together and displaying color palettes adjacent to one another on the display (see Figure 4), neither Adobe Systems Inc. nor Beretta explicitly disclose creating two specific contiguous groups of colors, one for non web-safe and a second for web-safe colors as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the grouping of specific web-safe and non web-safe colors of Adobe Systems Inc. with the color palette storing, displaying and selecting techniques of Beretta in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, "...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors," (see column 1, lines 40-51 of Beretta), therefore providing an easier environment for finding non web-safe and web-safe related colors within a color table.

3. Claims 72, 75, 78 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe Systems Inc. (*Adobe Photoshop 6.0 User Guide for Windows and Macintosh*. 2000. Adobe Systems Inc.), Beretta (U.S. Patent 5,254,978) and further in view of Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.).

In reference to claims 72, 75, 78 and 81, Adobe Systems Inc. and Beretta disclose all of the claim limitations as applied to claims 70 and 76. Although Adobe Systems Inc. does disclose the ability to sort a color table by luminance (see page 332, under "Sorting the color table"), neither Adobe Systems Inc. nor Beretta explicitly disclose the non web-safe blends created from non web-safe colors via incremental changes in saturation and value however Microsoft does. Microsoft discloses a custom color palette selection tool whereby custom colors maybe chosen by incrementing values of saturation and luminance or value (see screenshot's (2) and (3) of Microsoft Word 2000 color palette). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color table groupings of web-safe and non webs-safe colors of Adobe Systems Inc. and the color palette storing, displaying and selecting techniques of Beretta with the creation of alternate colors created by adjusting saturation and luminance values of Microsoft in order to allow users to better select suitable colors by displaying related colors adjacent one another applying the, "...well-known principles of color perception theory that human perception of color is influenced by the effect of adjacent colors," (see column 1, lines 40-51 of Beretta).

Allowable Subject Matter

4. Claims 22-27, 29-34, 41-46 and 59-68 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

In reference to claims 22 and 41, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose grouping web-safe color blends arranged to form a square wherein the colors are situated on one side of a diagonal of the square horizontally in order of decreasing saturation towards the diagonal and vertically in order of decreasing value towards the diagonal, and the colors in the other side of the diagonal are arranged horizontally decreasing in value towards the diagonal and vertically decreasing in saturation towards the diagonal, in combination with the further limitations of claims 22 and 41 respectively.

In reference to claims 23-27, 29-34 and 42-46, claims 23-27, 29-34 and 42-46 are allowed because they claim dependency upon allowable claims 22 and 41.

In reference to claim 59, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose arranging achromatic colors in one contiguous grouping within a palette, placing blends of non web-safe chromatic colors in a second contiguous grouping within the palette, placing web-safe chromatic colors, including blends created from web-safe chromatic colors in a third contiguous grouping within the palette and storing the palette for display and selection of the individual colors in combination with the further limitations of claim 59.

In reference to claims 60-68, claims 60-68 are allowed because they claim dependency upon allowable claim 59.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Claims 82-84 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In reference to claim 82, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose arranging achromatic colors in a third contiguous grouping within a palette in combination with the further limitations of claim 76, from which claim 82 depends from.

In reference to claims 83 and 84, claims 83 and 84 depend upon claim 82 and are therefore also objected to.

Response to Arguments

6. Applicant's arguments with respect to claims 70-84 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781.

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The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

571-273-8300 (Central Fax)


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

aac



12/11/07

Antonio Caschera
Patent Examiner



KEE M. TUNG
SUPERVISORY PATENT EXAMINER